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Attorneys for Plaintiff DIRECTV, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DIRECTV, INC., a California corporation,

Plaintiff,

vs.

FRANK VICKNER, et al.,

Defendants.

CASE NO. 03-CV-2336 JF HRL

Hon. Jeremy Fogel

**[PROPOSED] DEFAULT JUDGMENT
AGAINST DEFENDANT JOHN
TUTELIAN**

Date: September 9, 2005
Time: 9:00 a.m.
Courtroom: 3, 5th Floor

IT APPEARING from the records in the above-entitled action that the default of Defendant JOHN TUTELIAN ("Defendant") was entered on January 12, 2004 for failure to respond or to otherwise defend the Complaint for damages;

IT FURTHER APPEARING from the Motion for Default Judgment Against Defendant filed herein that Plaintiff DIRECTV, Inc. ("DIRECTV")'s claim for damages is for a sum that can by computation be made certain;

IT FURTHER APPEARING that there is no just reason for delay in entering final judgment in this matter as to Defendant and that final judgment shall be entered against said Defendant;

IT FURTHER APPEARING from the Declaration of counsel for DIRECTV dated July

1 11, 2005, that Defendant is not an infant or incompetent person;

2 IT FURTHER APPEARING from the Declaration of counsel for DIRECTV dated July
3 11, 2005, that Defendant is not in military service or otherwise exempted under the
4 Servicemembers' Civil Relief Act;

5 IT FURTHER APPEARING that DIRECTV alleges, and Defendant has admitted through
6 his default, that Defendant violated the Electronic Communications Privacy Act, 18 U.S.C.
7 § 2510, *et seq.*;

8 IT FURTHER APPEARING that, although 18 U.S.C. § 2520 provides for statutory
9 damages for violation of the Electronic Communications Privacy Act of whichever is the greater
10 of \$100 per day of violation or \$10,000, and although DIRECTV has submitted that Defendant
11 violated the statute on 1,110 days (the date of his purchase of the illegal devices through April 30,
12 2004, the date after which it appears the subject devices could not have been effective to modify
13 DIRECTV Access Cards), DIRECTV only requested in its Complaint statutory damages of
14 \$10,000 per illegal device purchased and used by Defendant;

15 IT FURTHER APPEARING that DIRECTV, as the prevailing party in this action, is
16 entitled to reasonable attorneys' fees and costs pursuant to 18 U.S.C. § 2520(b)(3) incurred in
17 prosecuting this action against Defendant and DIRECTV has submitted evidence of the amount of
18 those fees incurred;

19 NOW THEREFORE, on request of counsel for DIRECTV, Judgment shall be entered as
20 follows:

21 1. Pursuant to 18 U.S.C. § 2520, as against Defendant JOHN TUTELIAN, and in
22 favor of Plaintiff DIRECTV, Inc., the sum of \$20,000 (two (2) devices purchased and used by
23 Defendant x \$10,000), plus post-judgment interest thereon at the legal rate pursuant to 28 U.S.C.
24 § 1961 from the date of entry of this Judgment;

25 2. An award of attorneys' fees in the amount of \$2,094.93; and

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27 ///

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1 3. Costs pursuant to Fed. R. Civ. P. 54, subject to the filing of a Bill of Costs in
2 compliance with the Local Rules of this Court.

3
4 Dated: 9/9/05

/s/electronic signature authorized

Honorable Jeremy Fogel
United States District Court
Northern District of California

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER, NEMER, FIELDS & YOUNGER, A Professional Corporation, 18400 Von Karman Avenue, Suite 800, Irvine, California 92612-0514.

On July 11, 2005, I served the foregoing document described as: **[PROPOSED] DEFAULT JUDGMENT AGAINST DEFENDANT JOHN TUTELIAN** on all other parties and/or their attorney(s) of record to this action by placing a true copy thereof in a sealed envelope as follows:

John Tutelian
30530 Aurora Del Mar
Carmel, CA 93923

[X] BY OVERNIGHT DELIVERY I placed the Federal Express/Overnite Express package for overnight delivery in a box or location regularly maintained by Federal Express/Overnite Express at my office, or I delivered the package to an authorized courier or driver authorized by Federal Express/Overnite Express to receive documents. The package was placed in a sealed envelope or package designated by Federal Express/Overnite Express with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served at the address(es) shown above, as last given by that person on any document filed in the cause; otherwise at that party's place of residence.

[X] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 11, 2005, at Irvine, California.

Tammy Martin

/s/Tammy Martin

(Signature)